

1 John E. McOsker (SBN 169191)
jmcosker@wallerlaw.com
2 Stephen K. Lubega (SBN 126849)
slubega@wallerlaw.com
3 WALLER LANSDEN DORTCH & DAVIS, LLP
333 S. Grand Avenue, Suite 1800
4 Los Angeles, California 90071
Telephone: (213) 362-3680
5 Facsimile: (213) 362-3679
6 Attorneys for Defendant INX, Inc.

7
8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 SCHNEIDER RUCINSKI ENTERPRISES, a
California Company,

12 Plaintiff,

13 vs.

14 TOUCH ASIA OUTSOURCING SOLUTIONS,
15 INC. dba TOUCH ASIA CALL CENTER, INC.,
a California Corporation; RUDY NGAW, an
16 individual; STRATASOFT, INC.; INX, INC., a
Texas Corporation formerly known as I-SECTOR
17 CORPORATION; and DOES 1 through 20,
inclusive,

18 Defendants.
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) Case No. 08 CV 0138 WQH POR

) Date: March 24, 2008

) Time: 11:00 a.m.

) Judge: Hon. William Q. Hayes

) **DEFENDANT INX, INC.'S NOTICE OF**
) **MOTION AND MOTION TO DISMISS**
) **COMPLAINT FOR LACK OF SUBJECT**
) **MATTER JURISDICTION OR, IN THE**
) **ALTERNATIVE, TO DISMISS FOR**
) **FAILURE TO STATE A CLAIM**
) **[FRCP 12(b)(1)]**
) **[FRCP 12(b)(6)]**

) [NO ORAL ARGUMENT UNLESS
) REQUESTED BY THE COURT]

) Complaint Filed: January 23, 2008

22 **TO THE COURT, PLAINTIFF, AND ALL PARTIES AND THEIR RESPECTIVE**
23 **COUNSEL:**

24 **PLEASE TAKE NOTICE THAT:** On March 24, 2008, at 11:00 a.m., or as soon thereafter as
25 the Court can hear the matter, Defendant INX, Inc. ("INX") will move the Court for an order
26 dismissing this action pursuant to Fed. R. Civ. Pro 12(b)(1) on the ground that the Complaint on its
27 face fails to allege facts sufficient to establish subject matter jurisdiction in that it fails to allege
28 complete diversity between the Plaintiff and all Defendants. Accordingly, the Court must dismiss the

1 action on this ground alone. In the alternative, Defendant INX moves to dismiss the action pursuant to
2 Fed. R. Civ. Pro 12(b)(6) on the ground that Plaintiff has failed to state a claim upon which relief can
3 be granted against this Defendant in that the Complaint fails to make any factual allegations by which
4 this Defendant can be held liable for the alleged claims.

5 This motion is based upon this Notice of Motion, the accompanying Memorandum of Points &
6 Authorities, the Court's file and records and such other evidence and argument as the Court may
7 permit at a hearing on this motion.

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9 Dated: February 18, 2008

Respectfully submitted,

10 WALLER LANSDEN DORTCH & DAVIS, LLP

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12 By:  _____

13 John E. McOske
14 Attorneys for Defendant INX, Inc.

PROOF OF SERVICE

STATE OF CALIFORNIA)
 COUNTY OF LOS ANGELES)

ss.:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 333 S. Grand Avenue, Suite 1800, Los Angeles, California 90071.

On February 19, 2008, I served on the interested parties in said action the within:

DEFENDANT INX, INC.'S NOTICE OF MOTION AND MOTION TO DISMISS
 COMPLAINT FOR LACK OF SUBJECT MATTER JURISDICTION OR, IN THE ALTERNATIVE,
 TO DISMISS FOR FAILURE TO STATE A CLAIM

[FRCP 12(b)(1)]

[FRCP 12(b)(6)]

by placing a true copy thereof in a sealed envelope(s) addressed as stated below. and causing such envelope(s) to be deposited in the U.S. Mail at Los Angeles, California.

Noreen Rucinski
 3344 N. Mt. View Drive
 San Diego, CA 92116

In Pro Se Plaintiff

☒ (MAIL) I am readily familiar with this firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit for mailing in affidavit.

I declare under penalty of perjury that I am employed in the office of a member of the bar of this Court at whose direction the service was made and that the foregoing is true and correct.

Executed on February 19, 2008, at Los Angeles, California.

Michelle D. Irick
 (Type or print name)


 (Signature)